

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 97-319

November 7, 1997

PUBLIC UTILITIES COMMISSION
Proposed Amendment to Chapter 280
to Achieve Parity with Interstate
Access Rates by May 30, 1999

STIPULATION

The undersigned parties to the above-captioned proceeding hereby enter into this Stipulation: New England Telephone and Telegraph Company, doing business as Bell Atlantic-Maine ("NET" or the "Company"), the Staff of the Public Utilities Commission ("Staff"), the Office of the Public Advocate, the Department of Administrative and Financial Services, the State Planning Office and the Department of Education.

PROCEDURAL HISTORY

This proceeding was initiated by the Commission by Notice of Rulemaking/Notice of Inquiry dated June 10, 1997, ("Notice") to explore issues raised by the enactment of P.L. 1997, Chapter 259 which requires the Commission to establish intrastate access charges at or below interstate rate levels on or before May 30, 1999. The Commission observed in the Notice that changes in access rates may impact the terms and conditions of the Alternative Form of Regulation (AFOR) adopted for NET in Docket No. 94-123. The Notice propounds various issues concerning the timing and pace of the proposed access charge reductions and the

impact of such changes on the AFOR. The Commission established a deadline for Comments of August 25, 1997. By various orders issued by the Presiding Officer, however, the period for negotiations established in the Notice was extended to allow negotiations to continue.

In furtherance of the Commission's suggestion of a negotiated, comprehensive resolution of the issues, the parties have met at various times to discuss a comprehensive settlement. Such discussions were facilitated by the Commission's appointment of a moderator to structure the discussions to accommodate the views of all interested parties. As a result of such discussions the parties propose the following Stipulation.

PROVISIONS

The following provisions constitute the full and complete Stipulation of the parties hereto:

1. The Company will file tariffs for reductions to its intrastate switched access service rates as follows:

A. Tariffs for effect on or before May 30, 1998, that will reduce the Company's average intrastate switched access rate by a minimum of 40% of the reduction necessary to bring

the average access rate in effect as of July 1, 1997 to the estimated average interstate rate as of May 30, 1999 (currently estimated at approximately \$0.053 per minute, which includes a conversion of a proposed Presubscribed Interexchange Carrier Charge (PICC) into a per minute equivalent basis, but does not include any amount for the End User Common Line Charge);

B. Tariffs for effect on or before May 30, 1999, that will reduce the Company's average intrastate switched access rate to equal the average interstate rate levels (currently estimated at approximately \$0.053 per minute as described above). Also, the structure of intrastate access rates at May 30, 1999, shall reflect the interstate structure to the extent possible.

C. If on May 30, 1999, the actual average interstate switched access rate is not within 5% of the currently estimated average interstate rate (i.e., the rate including conversion of the PICC rate to a per minute

equivalent basis, is outside the range of \$0.05035-\$0.05565) the Company will file rate changes to Basic Exchange rates that reflect the revenue difference between the actual average rate and the estimated average rate (\$0.053). The Company shall not be required to implement such a change to the basic exchange rates if the amount of such change on a per access line basis is less than \$0.10 per month. In that case the Company shall propose an alternative mechanism to reconcile the access rate differential amount.

D. The effects of these rate changes will be reflected in the Actual Price Index calculation contained in the Annual Filing required by the Alternative Form of Regulation Plan.

2. All terms and conditions of the Alternative Form of Regulation adopted for NET by the Commission in Docket No. 94-123 shall remain in full force and effect, with the following exceptions:

A. The Company may file tariffs that will take effect within 30 days of the Final Order approving this Stipulation that increase all Basic Exchange rates as of the date of the Final Order by \$0.50 per month.

B. The Company may file tariffs that will take effect May 30, 1998, that will further increase all Basic Exchange Rates as of the date of the filing by \$1.00 per month.

C. The Company may file tariffs that will take effect May 30, 1999, that will increase all Basic Exchange Rates as of the date of the filing by an additional \$2.00 per month.

D. The effects of the rate changes described in 2A. above will not be reflected in the calculation of the Actual Price Index (API), except for the cumulative effect on starting ("current") prices for subsequent years' filings, as part of the AFOR adopted in Docket 94-123. The effect of the rate changes described in 2B. and 2C. above will be reflected in subsequent calculations of the API.

E. For purposes of the remaining term of the AFOR, the category of events eligible for consideration as "exogenous," as described in Section III.C.5 of the May 15, 1995, AFOR Order, shall be expanded beyond changes in NET's costs to include changes in NET's rates required to comply with any actions by Congress, the State Legislature, the Federal Communications Commission, or the Commission that impact the core revenues of NET, positively or negatively, provided such events otherwise satisfy the conditions for exogenous treatment set forth in the AFOR Order. Consistent with the May 15, 1995, AFOR Order any party may present a proposal for exogenous treatment of a particular cost or revenue change at the outset of an annual AFOR proceeding or independently in a proceeding brought under Section 1321. Any party may challenge a proposal for exogenous treatment of a particular cost or revenue change at the time of the Commission's review of that proposal.

3. The tariff filings required by Sections 1(A)(B) and (C) above and those permitted the Company in accordance with sections 2(A)(B) and (C) above shall be considered compliance filings of

the approved Stipulation, and their approval shall be delegated to the Director of Technical Analysis. Provided that the filings comply with the terms of this Stipulation and with any other applicable filing requirements contained in Title 35-A or in the Commission's Rules, such filings shall be approved. The Company will also comply with all applicable Commission rules concerning notification requirements to customers.

4. The issues identified by the Commission in Docket No. 97-411 that concern wholesale/retail access and toll rates applicable to optional toll calling plans are deemed resolved by the access rate reductions required by Section 1.A above and the Commission will close the proceeding in Docket No. 97-411 without further action. NET shall structure the access charge rate reductions required by Section 1.A to effect a change in the composite rate paid by Interexchange Carriers ("IXC") for access service in a manner that will result in an effective access rate for access minutes of use associated with an IXC's optional calling plans to be similar to the access rates implicit in the pricing of the Company's Pine Tree and Circle CallAround services. The Company will demonstrate compliance with this provision to the Staff and other interested parties prior to May 30, 1998.

5. No additional reductions to the Company's rates, beyond those described in this Stipulation, will be required as a result of the FCC's deregulation of Public Telephone Service or the jurisdictional Separations changes occasioned by FCC-imposed changes in the Other Billing and Collections account. In the event the above changes result in a net intrastate regulated operating income increase greater than \$6.0 million on an annual basis, such excess shall be treated by the Company as an exogenous event under the provisions of the AFOR and be included in the appropriate annual AFOR filing.

6. If actions by the Federal Communications Commission (FCC) have the effect of increasing the amount of support provided to reduce intrastate revenue requirements through the Universal Service High Cost Support fund or its successor, the Maine PUC retains its lawful authority to determine the disposition of those funds within the State of Maine to the extent not pre-empted by the FCC's disposition requirements.

7. In accordance with Section 9102 of Title 35-A the Commission, as part of the AFOR adopted in Docket 94-123, finds that NET may enter into special contracts with any of its customers, offering individually-designed rates and charges for any service, without the requirement of obtaining prior Commission approval under Section 703 of Title 35-A. Special

contracts remain subject to the marginal cost pricing floor requirements of the AFOR Order. In the event any special contract is challenged by any party, the Commission shall have authority to conduct an investigation, but the contract shall remain in full force and effect pending any Commission decision.

8. The Company's maximum refund obligation in any single reporting year for failing to meet the Network Reliability (Service Outages) Service Quality Index established by the Commission as part of the AFOR shall be increased from \$1 million to \$2 million. There shall be no change in the methodology for calculating any refund due for service performance that fails to meet this standard. In addition, to accommodate this increase in the maximum refund for Network Reliability performance, in any year the Company incurs a refund obligation related to Network Reliability performance results greater than \$1 million, the Company's maximum exposure for service quality refunds under the AFOR for all measured service quality objectives established in the Commission's final Order in Docket 94-123 shall be increased from \$10 million to \$11 million.

9. The Commission shall rescind the condition in its final Order approving the merger of NYNEX Corporation and Bell Atlantic Corporation (Docket No. 96-388) requiring the Company to continue investment in the infrastructure over the next four years, on

average, at the average annual level of investment achieved during the years 1992-1995. The Company will comply with the benchmarking condition in the Order requiring a demonstration of appropriate relationships between Maine and other Bell Atlantic jurisdictions, in terms of services, facilities, infrastructure and prices. The Company shall make such a demonstration annually, through and including 1999.

10. The execution of this Stipulation signifies a party's concurrence in the outcome of this proceeding, notwithstanding its views or position on any specific issues raised in the Commissions June 10, 1997 Notice of Rulemaking/Notice of Inquiry in this proceeding. The Stipulation shall not operate as precedent in any other Commission proceeding on such issues, nor be construed as an agreement by any party as to any matter of fact or law raised in this proceeding. Nothing in this Stipulation either enlarges or abridges the Commission's authority to change rates based on the resolution of any item included in the June 10 Notice, or any other revenue item or expenditure, subsequent to the expiration of the initial AFOR term.

11. The Stipulation does not address the appropriate ratemaking disposition of any potential surplus in the escrow account for Schools and Libraries established by the Commission

in its May 15, 1995 Order in Docket No. 94-254. Nothing in the Stipulation herein is intended to relieve the Company of its obligation to maintain such escrow account, nor is the Commission's jurisdiction over the use of such funds and the ratemaking disposition prior to the expiration of the AFOR of surplus funds, if any, affected by the Stipulation.

12. Should the Law Court's decision in NET's appeal of the Commission's order in Docket 96-526 require the rescission of the access rate reductions ordered by the Commission for effect on July 1, 1997, NET will immediately file tariffs to prospectively reinstate the reduced access rates. Such reinstatement will be in recognition of the basic rate increase allowed in Section 2.A of this Stipulation. In addition, the rate increases allowed in Sections 2(B) and (C) are contingent upon the coincidental implementation of the access reductions contained in Section 1 (A) and (B).

13. It is agreed and understood that the Stipulation is an integrated whole, with each provision explicitly negotiated and integrally related to every other. As such, rejection or revision by the Commission of any separate provision constitutes a rejection of the entire agreement. Should the Commission fail to approve the entire Stipulation as filed by the parties, the Stipulation shall be void and of no further effect. Under such

circumstances, neither the Stipulation, nor any part thereof, shall be offered or introduced as evidence in this or any other proceeding.

14. The parties to this Stipulation hereby waive any rights they may have under 5 M.R.S.A. Section 9055 and related Commission rules to the extent necessary to permit the Staff to discuss the Stipulation with the Commission and the resolution of this matter consistent with the Stipulation without the participation of other parties.

IN WITNESS WHEREOF, the parties hereto have caused this Stipulation to be duly executed by their respective attorneys or agents, each being fully authorized to do so on behalf of his/her principal.

Dated: November __, 1997

NEW ENGLAND TELEPHONE
AND TELEGRAPH COMPANY

By: _____
Donald W. Boecke
Its Attorney

STAFF OF THE PUBLIC
UTILITIES COMMISSION

By: _____

STATE PLANNING OFFICE

By: _____

DEPARTMENT OF ADMINISTRATION
AND FINANCIAL SERVICES

By: _____

OFFICE OF THE PUBLIC ADVOCATE

By: _____

AMERICAN ASSOCIATION OF
RETIRED PERSONS

By: _____

AT&T

By: _____

SENATOR JOHN J. CLEVELAND

By:

REPRESENTATIVE PATRICK COLWELL

By:

CYBERTOURS

By: _____

DEPARTMENT OF ECONOMIC AND
COMMUNITY DEVELOPMENT

By: _____

DEPARTMENT OF EDUCATION

By: _____

REPRESENTATIVE KYLE W. JONES

By: _____

VANGUARD CELLULAR

By: _____

REPRESENTATIVE CHARLES C. LAVERDIERE

By: _____

MCI TELECOMMUNICATIONS CORP.

By: _____

MAINECOM

By: _____

MAINE PEOPLES' ALLIANCE

By:

MAINE SCIENCE AND TECHNOLOGY
FOUNDATION

By:

MAINE STATE LIBRARIAN

By: _____

PINE TREE TELEPHONE AND
TELEGRAPH COMPANY

By: _____

SPRINT COMMUNICATIONS COMPANY

By: _____

TELEPHONE ASSOCIATION OF MAINE

By: _____

SENATOR SHARON ANGLIN TREAT

By: _____